

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF  
SOUTHEAST BY-PRODUCTS  
CENTRE, ALABAMA

ORDER NO. 89-107-WP

FINDINGS OF FACT

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 through 22-22A-16, Code of Alabama (1975)(1988 Cum. Supp.), the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code of Alabama (1975)(1988 Cum. Supp.), and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Department makes the following FINDINGS OF FACT:

1. Southeast By-Products (hereinafter "the Operator") operates a facility in Centre, Alabama, which processes reject bakery goods into meal for the production of poultry feed.

2. § 22-22-9(i)(3), Code of Alabama (1975)(1988 Cum. Supp.) provides that:

"Every person prior to discharging any new or increased pollution into any waters of the state, shall apply to the [Alabama Department of Environmental Management] in writing for a permit and must obtain such permit before discharging such pollution."

ISSUED 8/4/89	SERVED 8/5/89
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ADEM Admin. R. 6-6-.03 states that "no person shall discharge pollution from a point source into waters without first having obtained a valid NPDES [National Pollutant Discharge Elimination System] permit . . ." (hereinafter "NPDES").

3. An inspection of the Southeast By-Products facility on January 11, 1989 by Department personnel confirmed an ongoing discharge of pollutants into waters of the State.

4. Southeast By-Products does not hold, nor has it applied for a NPDES permit.

5. By letter dated February 1, 1989 the Department notified the Operator of the aforementioned violation, and required the Operator to submit not later than March 15, 1989, a full written report prepared by an engineer registered and authorized to practice in Alabama, showing the steps that have been taken and/or are being taken to correct the violation.

6. By letter dated March 9, 1989, from Jones, Blair, Waldrup and Tucker, Inc., consulting engineers retained by the Operator to investigate and make recommendations, the Department was requested to grant an extension of the March 15, 1989 deadline for submitting the referenced report.

7. By letter dated March 16, 1989 the Department granted the request and extended the deadline for submission of a report until April 15, 1989.

8. As of July 25, 1989, the Operator had refused or otherwise failed to submit to the Department the required report or to cease the unpermitted discharge.

9. An investigation by Department personnel on May 4, 1989, confirmed the continued unpermitted discharge of pollutants by the Operator into waters of the State, in violation of §22-22-9(i)(3), Code of Alabama (1975)(1988 Cum.Supp.). Samples collected and analyzed in connection with said inspection revealed the following:

<u>Sample #</u>	<u>pH</u>	<u>H<sub>2</sub>O Temp</u>	<u>D.O.</u>	<u>BOD<sub>5</sub></u>	<u>TSS</u>	<u>NH<sub>3</sub>-N</u>	<u>O&amp;G</u>
1	4.3	22°C	0.0	16,625	1,570	84.34	838.8
2	4.1	18°C	0.0	24,000	2,020	53.49	1501.0
3	4.4	18°C	0.0	6,200	760	75.76	107.9
4			0.0				

10. The Operator has realized an economic benefit from its failure to comply with the Alabama Water Pollution Control Act.

11. The Operator has failed to take satisfactory steps to minimize or mitigate the effects of the aforesaid violations.

12. The violations cited herein were committed knowingly, intentionally, and without regard for the consequences thereof or the alternatives thereto.

13. The Operator has the ability to pay a civil penalty.

ORDER

Based upon the foregoing FINDINGS OF FACT and pursuant to §§ 22-22A-5(10), 22-22A-5(18), 22-22-9(i), 22-22-9(k) and 22-22-9(c), Code of Alabama (1975)(1988 Cum.Supp.), it is hereby ORDERED:

A. That there is hereby assessed a civil penalty against Southeast By-Products in the amount of Five Thousand Dollars (\$5,000.00), to be paid to the Alabama Department of Environmental Management within thirty (30) days of receipt of this Order.

B. That the Operator shall immediately upon notice of this Order cease all unpermitted discharges from the referenced site facility until such time a satisfactory treatment system has been installed and/or a SID discharge permit has been obtained as provided hereinbelow.

C. That not later than August 15, 1989, the Operator shall complete installation of a temporary treatment and pumping facilities.

D. That not later than August 30, 1989, the Operator shall submit to the Department a completed State Indirect Discharge ("SID") permit application.

E. That not later than September 30, 1989, the Operator shall complete the start-up of the proposed tunnel washer and begin dewatering of the waste pond.

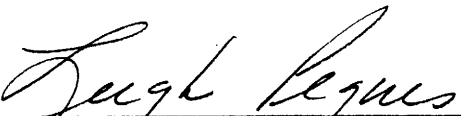
F. That not later than November 30, 1989, the Operator shall submit to the Department a permanent solution for waste treatment and disposal.

G. That not later than December 30, 1989, the Operator shall complete closure of the waste pond and shall reclaim all affected areas.

H. That the failure of the Operator to comply with any of the provisions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief.

I. That the issuance of this Order does not preclude the Department or others from seeking criminal fines or other appropriate sanctions or relief against the operator for violations state herein.

ORDERED and ISSUED this 4th day of August, 1989.

  
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Leigh Pegues, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W. L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7700

CERTIFICATE OF SERVICE

I, Thomas L. Johnston, hereby certify that I have served the foregoing Administrative Order, Order No. 89-107-WP upon Southeast By-Products by sending the same postage paid, through the U.S. Mail, as Certified Mail No. (P-873-074-596), with instructions to forward and return receipt requested to:

Mr. Jerry M. Behimer, President  
Southeast By-Products  
Route 1, Box 30F  
Centre, Alabama 35960

Done this 4th day of August, 1989.

  
Thomas L. Johnston